United States District Court Southern District of Texas

## **ENTERED**

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION August 13, 2018

David J. Bradley, Clerk

MONICA HARDAWAY and GLENN HARDAWAY,	§ §				
	§				
Plaintiffs,	§				
	§				
v.	§ C	IVIL .	ACTION	NO.	H-18-1062
	§				
SELECT PORTFOLIO SERVICING,	§				
INC. and DEUTSCHE BANK	§				
NATIONAL TRUST COMPANY, AS	§				
TRUSTEE IN TRUST FOR	§				
REGISTERED HOLDERS OF LONG	§				
BEACH MORTGAGE LOAN TRUST	§				
2006-WL1, ASSET-BACKED	§				
CERTIFICATES, SERIES 2006-WL1,	§				
	§				
Defendants.	§				

## ORDER

Pending is Plaintiffs' "Motion for Interrogatories, Discovery and Production of Documents Under Level 2; Qualified Written Request; FOIA Request" (Document No. 10). Although Plaintiffs name their filing as a motion, it seeks no ruling from the Court and instead consists entirely of discovery requests directed to Defendants. Under the Federal Rules of Civil Procedure, no motion is required to serve interrogatories and document requests on a party-opponent. See FED. R. CIV. P. 26, 33, 34. Moreover, such a request is premature, as "[a] party may not seek discovery from any

<sup>&</sup>lt;sup>1</sup> Plaintiffs' motion references the Texas Rules of Civil Procedure, but once a state court action is removed, it is governed by federal procedure. See FED. R. CIV. P. 81(c)(1) ("These rules apply to a civil action after it is removed from a state court.").

source before the parties have conferred as required by Rule 26(f)." FED. R. CIV. P. 26(d)(1). Accordingly, it is

ORDERED that Plaintiffs' motion is DISMISSED as having been improvidently filed, without prejudice to Plaintiffs seeking appropriate discovery from Defendants at the proper time, and in accordance with the Federal Rules of Civil Procedure.

The Clerk will enter this Order, providing a correct copy to all counsel of record.

SIGNED in Houston, Texas, on this

EWING WERLEIN, JR.

UNITED STATES DISTRICT JUDGE